

Department of Agriculture

**For the Years Ended
June 30, 1998, and June 30, 1997**

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July 30, 1999

The Honorable Don Sundquist, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
The Honorable Dan Wheeler, Commissioner
Department of Agriculture
Ellington Agricultural Center
Nashville, Tennessee 37204

Ladies and Gentlemen:

We have conducted a financial and compliance audit of selected programs and activities of the Department of Agriculture for the years ended June 30, 1998, and June 30, 1997.

We conducted our audit in accordance with generally accepted government auditing standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. These standards require that we obtain an understanding of management controls relevant to the audit and that we design the audit to provide reasonable assurance of the department's compliance with the provisions of policies, procedures, laws, and regulations significant to the audit. Management of the Department of Agriculture is responsible for establishing and maintaining internal control and for complying with applicable laws and regulations.

Our audit disclosed certain findings which are detailed in the Objectives, Methodologies, and Conclusions section of this report. The department's administration has responded to the audit findings; we have included the responses following each finding. We will follow up the audit to examine the application of the procedures instituted because of the audit findings.

We have reported other less significant matters involving the department's internal controls and/or instances of noncompliance to the Department of Agriculture's management in a separate letter.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/ms
99/070

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit
Department of Agriculture
For the Years Ended June 30, 1998, and June 30, 1997

AUDIT SCOPE

We have audited the Department of Agriculture for the period July 1, 1996, through June 30, 1998. Our audit scope included a review of management's controls and compliance with policies, procedures, laws, and regulations for these divisions of Regulatory Services: Plant Certification, Weights and Measures, Food and Dairy, and Animal Health and also compliance with the Financial Integrity Act. The audit was conducted in accordance with generally accepted government auditing standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

AUDIT FINDINGS

The Division of Plant Certification Has Not Enforced Department Rules

The Division of Plant Certification did not enforce rules developed to ensure the quality of Tennessee's nursery stock (page 5).

The Division of Animal Health Does Not Adhere to Its Rules Regarding the Oversight of Tennessee Hatcheries

The division does not ensure that hatcheries either are inspected semiannually or are fully and adequately participating in the National Poultry Improvement Plan (page 11).

"Audit Highlights" is a summary of the audit report. To obtain the complete audit report which contains all findings, recommendations, and management comments, please contact

Comptroller of the Treasury, Division of State Audit
1500 James K. Polk Building, Nashville, TN 37243-0264
(615) 741-3697

Audit Report
Department of Agriculture
For the Years Ended June 30, 1998, and June 30, 1997

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Department of Agriculture

For the Years Ended June 30, 1998, and June 30, 1997

INTRODUCTION

POST-AUDIT AUTHORITY

This is the report on the financial and compliance audit of the Department of Agriculture. The audit was conducted pursuant to Section 4-3-304, *Tennessee Code Annotated*, which authorizes the Department of Audit to “perform currently a post-audit of all accounts and other financial records of the state government, and of any department, institution, office, or agency thereof in accordance with generally accepted auditing standards and in accordance with such procedures as may be established by the comptroller.”

Section 8-4-109, *Tennessee Code Annotated*, authorizes the Comptroller of the Treasury to audit any books and records of any governmental entity that handles public funds when the Comptroller considers an audit to be necessary or appropriate.

BACKGROUND

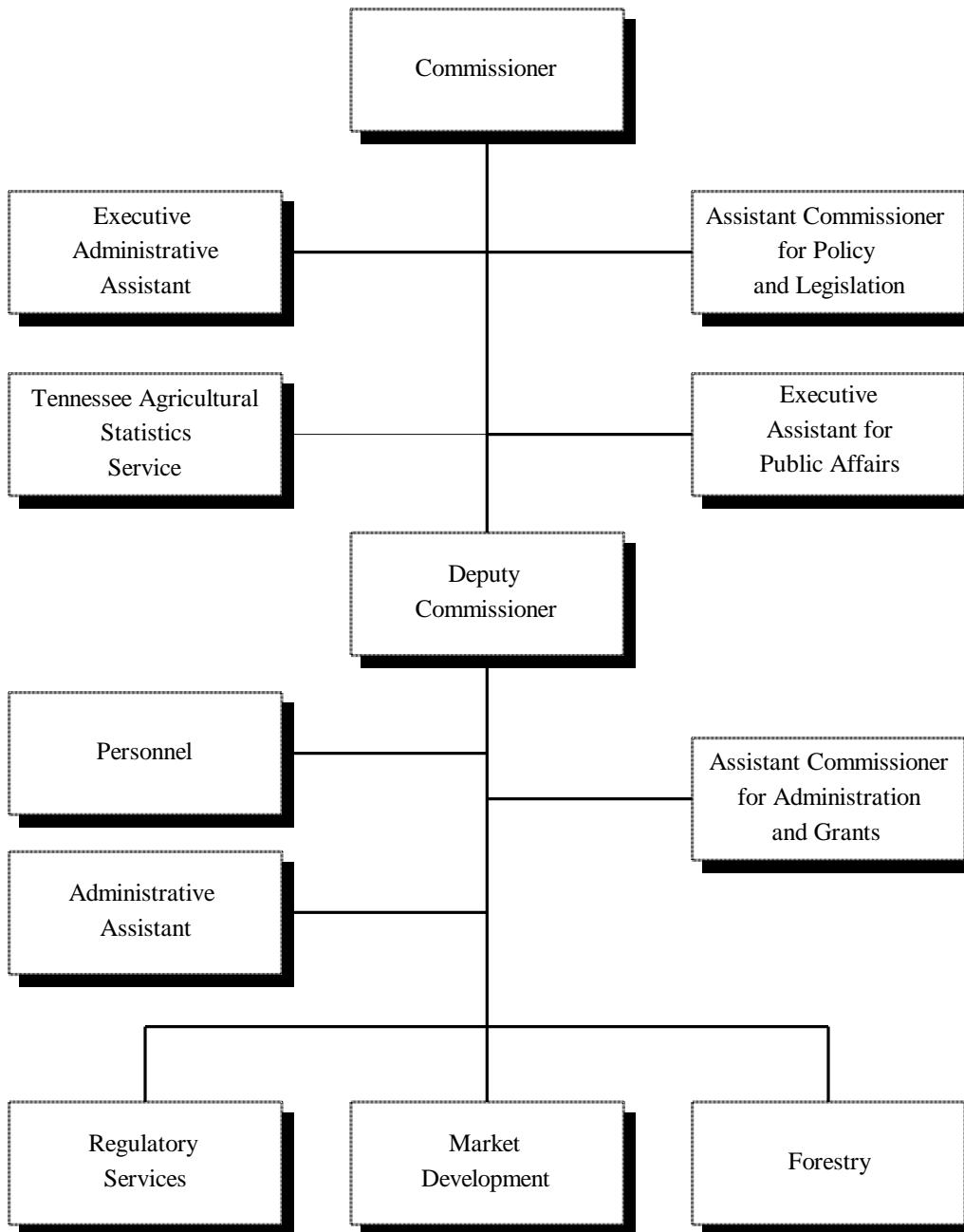
The Department of Agriculture’s mission is to improve the livelihood of farmers, forestland owners, consumers, and the state’s agri-industries through sustaining our natural resources, enforcing clear and effective regulations, and maximizing economic opportunities. The department has the following powers and responsibilities:

1. To encourage and promote the interests of agriculture, including horticulture, the livestock industry, the dairy industry, poultry raising, beekeeping, wool production, and other allied industries.
2. To promote and improve methods of conducting agricultural industries to increase the production of and facilitate the distribution of products at minimum costs.
3. To collect, publish, and distribute statistics relating to crop production and marketing and to the production and marketing of beef, pork, poultry, and other agricultural products.
4. To inquire into the cause of contagious, infectious, and communicable disease among domestic animals and to seek prevention and cure of disease.

5. To assist, encourage, and promote the organization of farmers' institutes and horticultural and agricultural societies and the holding of fairs, stock shows, or other exhibits of agricultural products.
6. To cooperate with the University of Tennessee Agriculture Extension Service and the United States Department of Agriculture.
7. To cooperate with producers and consumers in devising and maintaining economical and efficient systems of marketing and distributing agricultural products.
8. To inspect any place where fruits are grown or stored, to inspect any plant life for pests or diseases, and to strive toward eradication of these pests or diseases.
9. To assist the Soil Conservation Districts and the State Soil Conservation Committee in discharging duties described in the Soil Conservation District Act of 1939.
10. To preserve and develop the forestland of Tennessee for public benefit through programs of forest protection, forest management, and reforestation.
11. To inspect and regulate retail food stores, food service establishments, food manufacturers, food warehouses, food distributors, and dairy farms and plants.
12. To perform custom slaughterhouse inspections, hazardous substance inspections, and egg shell inspections.
13. To ensure compliance with regulations for nutritional labeling, hazardous substance labeling, consumer product safety, bottled water, and the enforcement of state tobacco laws regarding sales to minors.
14. To regulate motor fuels sold within the state for quality and correct octane levels.
15. To license certified public weighers and weighmasters and to inspect scales used across the state.

An organization chart of the department is on the following page.

TENNESSEE DEPARTMENT OF AGRICULTURE



AUDIT SCOPE

We have audited the Department of Agriculture for the period July 1, 1996, through June 30, 1998. Our audit scope included a review of management's controls and compliance with policies, procedures, laws, and regulations for these divisions of Regulatory Services: Plant Certification, Weights and Measures, Food and Dairy, and Animal Health and also compliance with the Financial Integrity Act. The audit was conducted in accordance with generally accepted government auditing standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

OBJECTIVES, METHODOLOGIES, AND CONCLUSIONS

PLANT CERTIFICATION

Our objectives in reviewing the Division of Plant Certification were to determine whether

- the procedures for collecting fees were adequate,
- the procedures for issuing certificates were adequate,
- cash receipts for certifications were properly accounted for and deposited timely,
- monitoring procedures were adequate, and
- nursery stock held for sale by dealers had the proper certification from the supplier.

We interviewed key department personnel to gain an understanding of the department's rules, controls, and procedures for Plant Certification. We reviewed supporting documentation and tested samples of cash receipts, applications, inspections, and plant certifications. We also visited selected nurseries and plant dealers.

We determined that Plant Certification does not follow the department's rules for inspection of sales, applications, nursery agents, tags for plants, and administrative fees. This matter is discussed in finding 1. In addition to the finding, other minor weaknesses were reported to management in a separate letter.

1. The Division of Plant Certification has not enforced department rules

Finding

The Division of Plant Certification did not enforce rules developed to ensure the quality of Tennessee's nursery stock. This lack of enforcement may in part be responsible for the decline in recent years of Tennessee's nursery industry from fifth in the nation to nineteenth. The Governor's Council on Agriculture and Forestry cited problems such as Japanese beetle infestation, dogwood anthracnose, gypsy moths, fire ants, and less than sufficient regulatory oversight for the decline.

The division did not comply with the following Department of Agriculture rules and regulations:

- a. Plant dealers must affirm to the department that all nursery stock will be purchased from a supplier holding a valid certificate. Dealers are also required to furnish the department a list of the certified suppliers from whom they expect to purchase stock. However, dealers had not listed as certified suppliers 17 of the 26 suppliers reviewed. Rule 0080-6-1-.07 Plant Dealers states:

It shall be illegal for any person to engage in business as a plant dealer without having first registered with the Tennessee Department of Agriculture. Such certificate shall be issued on application when applicant has affirmed that all nursery stock handled will have been secured from a source holding a valid certificate issued by the proper official of this State or other state or states, and when such applicant has furnished to the Director of Entomology and Plant Pathology a list of such certified sources from which he proposes to secure nursery stock. It shall be the responsibility of the nursery dealer holding a certificate under these regulations to maintain such records as are necessary to demonstrate that stock sold, displayed for sale, held, or transported was in fact secured from such stipulated certified sources.

The division's failure to monitor dealers' lists of suppliers lessens assurance that the lists are accurate and complete and that suppliers are certified.

- b. Dealers did not always have certification from the supplier that the nursery stock held for sale was free of insect pests and plant diseases. At the five dealers visited, there was no certificate for the stock from 13 of the 26 suppliers tested. Not all dealers visited were aware that proof of certification from suppliers should be on hand for all stock held for sale. Rule 0080-6-1-.05 Tags for Plants states, "All nursery stock shipped, sold or delivered or transported for sale or delivery in this State shall have

affixed to each package, or to each plant when sold or delivered without packaging, a tag which shall bear a copy of the valid certificate covering such stock.”

- c. The department did not require nurseries, greenhouses, and dealers to fill out proper applications for certification. Rule 0080-6-1-.03 Application states:

All persons desiring certification of nursery stock shall make application for same to the Director of Entomology and Plant Pathology, Tennessee Department of Agriculture by or before June 1, of each calendar year. Applicants are required to furnish information as to the amounts and kinds of stock for which application for certification is made and locations where such stock is being grown or held.

The application process serves as a vital component of Plant Certification’s duty to ensure that stock grown in, transported into, and transported out of Tennessee is disease- and pest-free. Twenty-two of 60 businesses tested did not have a certification application on file with the department. Furthermore, none of the 38 applications on file were submitted by June 1. Also, two of five businesses visited had no records on file at Plant Certification. Without an application on file for nurseries, greenhouses, and dealers, there is no way to determine that stock purchased is certified, nor is it possible to determine that the locations, amounts, and kinds of stock grown are properly listed with Plant Certification. Also, a proper application process affirms that a business is correctly classified as a nursery, greenhouse, or plant dealer and, therefore, receives appropriate review by Plant Certification. Of the five businesses visited, two businesses classified as dealers were actually growing stock, and one business classified as a nursery was purchasing stock from other sources.

- d. The department did not require nurseries, greenhouses, and dealers to register nursery agents. Rule 0080-6-1-.08 Nursery Agents states:

It shall be illegal for any person to engage in business as a nursery agent without having first registered with the Tennessee Department of Agriculture. Such registration will become valid when the employing nursery or firm furnishes the Tennessee Department of Agriculture the name and address of each prospective agent and an accompanying statement affirming that such person is authorized and empowered to represent the nursery or firm, and further, that the nursery or firm is bound by contracts for sales and delivery of nursery stock made by the agent on their behalf.

None of the 60 businesses tested had agents registered with the department. The registration process is necessary to ensure the proper sale of certified stock.

- e. Plant Certification exempted greenhouses under 600 square feet from the certification fee. The law exempting hobbyists did not exist during the audit period. Therefore, all greenhouses should have paid a certification fee. Because Plant Certification failed to collect certification fees from all greenhouses, the department lost revenue.

Recommendation

Plant Certification should enforce the rules set by the Department of Agriculture. If these requirements are not feasible or other procedures are more appropriate, the department's rules should be revised.

Management's Comment

We concur with the finding.

- a. We will perform random audits of plant dealers, nurseries, and greenhouses annually to see if they are in compliance. A proposed Civil Penalties Rule has been signed off by the Attorney General which will give Plant Certification the ability to levy civil penalties when records are not being properly kept.
- b. We will propose to change Rule 0080-6-1-.05 to read: *Each shipment of nursery stock sold or delivered or transported for sale or delivery in this State shall be accompanied with a copy of the valid certificates covering such stock.* Random audits will be carried out to see if plant dealers are compliant. A proposed Civil Penalties Rule has been signed off by the Attorney General which will give Plant Certification the ability to levy civil penalties when records are not being properly kept.
- c. Rule 0080-6-1-.03 requires application by June 1 of each year. The department agrees that an annual application is needed for renewing nurseries and a new application is needed for nurseries and greenhouses that have not been previously registered. The department will propose a rule change that will eliminate the date for application. The renewal application will be sent to all certificate holders a minimum of 30 days prior to expiration of their certificate. The application will require the nurseries and greenhouses to list companies where they purchase or plan to purchase plants, as well as their address, phone number, etc. The company's application will be placed with their inspection reports in the future. Their sources will be checked to see that they are currently certified. Nurseries, greenhouses, and plant dealers that have not previously been certified will fill out a new application.
- d. The department will propose to eliminate Rule 0080-6-1-.08.

- e. Greenhouses and nurseries with fewer than 600 square feet were exempted as hobbyist as a division policy. This has been reinforced by a change to Rule 0080-6-21-.01(1)(a) 2. (i) and 6. (i) effective March 31, 1999, that exempts the above from payment as hobbyist.

WEIGHTS AND MEASURES

In the Division of Weights and Measures, we focused on Petroleum Administration and Standards Administration.

Petroleum Administration

Our objectives were to determine whether

- the procedures for testing all applicable locations selling fuel, for assessing and collecting fines and penalties, and for collecting delinquent fines were adequate;
- cash receipts for fines were properly accounted for and deposited timely;
- adequate supporting documentation existed for the locations tested;
- the commissioner maintains a toll-free telephone line to receive consumer complaints pertaining to kerosene and motor fuel quality;
- action has been taken to remind consumers of the existence and purpose of the toll-free number;
- a log of complaints pertaining to kerosene and motor fuel quality was maintained at the commissioner's office; and
- an "Annual Report on the Quality of Kerosene and Motor Fuel in Tennessee" was submitted to the Governor on time.

Standards Administration

Our objectives were to determine whether

- the procedures for issuing licenses to certified public weighers, public weighmasters, and serviceperson registration were adequate;
- the commissioner maintained a record of all applications filed and all licenses issued for certified public weighers and public weighmasters;
- the procedures for collecting fees were adequate;

- cash receipts for fees were properly accounted for and deposited timely;
- all certified public weighers furnished a \$5,000 bond with a surety by a corporate bonding company;
- certified public weighers and public weighmasters made an oath to execute faithfully such duties and filed the oath with the commissioner;
- the state possesses one set of primary standards calibrated to the standards prescribed by the National Institute of Standards and Technology (NIST), and whether only this set is used to verify the secondary standards and for scientific purposes;
- the primary standards are kept in a place designated by the commissioner and approved by NIST and are removed only for repairs or calibration; and
- each city sealer and county sealer of weights and measures filed a fiscal year summary of all weights and measures inspections and activities.

We interviewed key personnel to gain an understanding of the department's rules, controls, and procedures for Weights and Measures. We reviewed supporting documentation and tested samples of cash receipts, fines, and fuel inspections for Petroleum Administration. We also tested samples of applications for permits, surety bonds, and oaths for Standards Administration.

We had no findings related to Weights and Measures; however, other minor weaknesses were reported to management in a separate letter.

- the procedures developed for inspection of sites and approval of applications for new retail food store openings were adequate;
- retail food stores and food service establishments were inspected every six months and whether the proper reporting and scoring requirements were used for the inspections;
- the procedures for violation correction and follow-up inspections were adequate;
- the procedures for suspension and revocation of permits were adequate;
- the Department of Agriculture has contracted with Shelby, Madison, Davidson, and Knox Counties for inspection and enforcement to prevent duplication of inspections, and if all permit fees collected for these areas were transferred to the counties' health department; and
- the county health department regulations meet state reporting requirements, are as stringent as those of the state, maintain consistency and integrity of the statewide program, and have adequate staffing and resources to implement and enforce the program.

We interviewed key department personnel to gain an understanding of the department's rules, controls, and procedures for Food and Dairy. We reviewed supporting documentation and tested samples of food store establishments for permits, inspections, and follow-up inspections. We also tested a sample of cash receipts.

We had no findings related to Food and Dairy; however, other minor weaknesses were reported to management in a separate letter.

ANIMAL HEALTH

Our objectives in reviewing the Division of Animal Health were to determine whether

- the procedures for registering brands, licensing livestock dealers, and licensing community sales were adequate;
- a community sale issued a license filed a \$10,000 or higher bond with the department;
- cash receipts for permits were properly accounted for, collected in the proper amount, and deposited timely;
- the procedures for regulating Tennessee Poultry and Baby Chick Inspection Service were adequate; and
- there was adequate oversight of hatcheries.

We interviewed key department personnel to gain an understanding of the department's rules, controls, and procedures for Animal Health. We reviewed supporting documentation and tested samples of brand registrations, livestock dealer licenses, community sale licenses, baby chick licenses, and hatchery inspections.

We determined that Animal Health did not adhere to its rules regarding the oversight of Tennessee hatcheries as discussed in finding 2. In addition to the finding, other minor weaknesses were reported to management in a separate letter.

2. The Division of Animal Health does not adhere to its rules regarding the oversight of Tennessee hatcheries

Finding

According to Chapter 0080-2-2-.01 of the *Rules of the Tennessee Department of Agriculture Division of Animal Industries*, each hatchery in Tennessee shall “have its premises, including equipment, inspected and approved at least twice yearly by a representative of the Tennessee Department of Agriculture.” The rules further indicate that the purpose of the inspection is to ensure that the hatcheries “maintain adequate sanitation, cleaning and fumigation to prevent the propagation and spread of disease.” The department may forgo the inspection if the hatchery elects to “participate fully and adequately in the National Poultry Improvement Plan.” The Department of Agriculture is the Official State Agency of the National Poultry Board. The Department of Agriculture has failed to ensure that either of these requirements have been fulfilled.

Tennessee has four hatcheries: Tyson Food Obion County Hatchery (Union City), Tyson Food, Inc. Poultry Hatchery (Dechard), Ross Breeders (Crossville), and Hubbard ISA (Pikeville). The Tyson Food Obion County Hatchery opened in July 1997 but was not inspected until August 18, 1998—thirteen months later. The Tyson Food, Inc. Poultry Hatchery was inspected only once in 1997 (July 22) and once in 1998 (January 4). Ross Breeders was inspected only twice from 1997 to 1998 (October 17, 1997, and December 28, 1998). Hubbard ISA opened in March 1997 but was not inspected until December 9, 1997. The hatchery was not inspected again until August 12, 1998. None of the hatcheries were inspected semiannually, as required, in either 1997 or 1998.

To fully comply with the National Poultry Improvement Plan and Auxiliary Provisions, each hatchery must meet numerous requirements. Section 145.3 of the Plan states that participants are to have “signed an agreement with the Official State Agency to comply with the general and the applicable specific provisions of the Plan.” When asked to produce these signed agreements, the Department of Agriculture was unable to do so. Section 145.6 of the Plan states that hatcheries are to be kept in sanitary condition “acceptable to the Official State Agency.” To ensure that the hatcheries are in acceptable condition, the department must inspect the hatcheries. Finally, Section 145.12 of the Plan states, “Each participating hatchery shall be inspected a

sufficient number of times each year to satisfy the Official State Agency that the operations of the hatchery are in compliance with the provisions of the Plan.” The amount of time between inspections (fourteen months in the instance of Ross Breeders) hardly seems adequate to give this assurance.

The semiannual inspections and/or the participation in the National Poultry Improvement Plan are to provide a foundation for the department’s assurances that chickens raised in Tennessee are disease-free. Failure to ensure that hatcheries are either inspected semiannually by the department or fully and adequately participating in the National Poultry Improvement Plan lessens the validity of these assurances.

Recommendation

The Livestock Administrator should establish a systematic schedule of inspections and perform the scheduled inspections to ensure each of the four hatcheries is inspected twice each year. In lieu of these inspections, the Livestock Administrator should ensure that the hatcheries are fully participating in the National Poultry Improvement Plan.

Management’s Comment

We concur with the finding. We are in the process of securing a signed agreement from each hatchery to document their intent to participate in the National Poultry Improvement Plan. The State Veterinarian will oversee monitoring of operations at each hatchery to insure sanitary conditions are acceptable.

FINANCIAL INTEGRITY ACT

The Financial Integrity Act of 1983 requires each executive agency to evaluate its systems of internal accounting and administrative control annually and report the results of its evaluation to the Commissioner of Finance and Administration and the Comptroller of the Treasury by December 31 of each year.

The objectives of our review of the department’s compliance with the Financial Integrity Act were to determine whether

- the department’s reports were filed in compliance with the act,
- documentation to support the department’s evaluation was properly maintained,
- procedures used in compiling information for the reports were adequate, and
- corrective actions had been implemented for weaknesses identified in the reports.

We interviewed key employees responsible for compiling information for the reports to gain an understanding of the procedures. We also reviewed the supporting documentation for these procedures and the reports submitted to the Comptroller of the Treasury and to the Department of Finance and Administration.

We determined that the Financial Integrity Act reports were submitted on time and that support for the reports was adequate.

PRIOR AUDIT FINDINGS

There were no findings in the prior audit report.

OBSERVATIONS AND COMMENTS

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Tennessee Code Annotated, Section 4-21-901, requires each state governmental entity subject to the requirements of Title VI of the Civil Rights Act of 1964 to submit an annual Title VI compliance report and implementation plan to the Department of Audit by June 30, 1994, and each June 30 thereafter. For the year ended June 30, 1998, the Department of Agriculture filed its compliance report and implementation plan on July 21, 1998, and for the year ended June 30, 1997, on July 10, 1997.

Title VI of the Civil Rights Act of 1964 is a federal law. The act requires all state agencies receiving federal money to develop and implement plans to ensure that no person shall, on the grounds of race, color, or origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal funds.

The State Planning Office in the Executive Department was assigned the responsibility of serving as the monitoring agency for Title VI compliance, and copies of the required reports were filed with the State Planning Office for evaluation and comment. However, the State Planning Office has been abolished. The Office of the Governor has not designated a new monitoring agency for the Executive Branch.

A summary of the dates state agencies filed their annual Title VI compliance reports and implementation plans is presented in the special report *Submission of Title VI Implementation Plans*, issued annually by the Comptroller of the Treasury.

APPENDIX

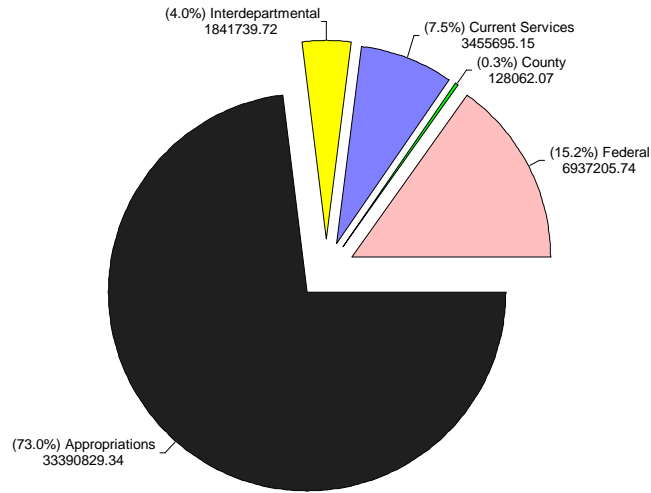
DIVISIONS AND ALLOTMENT CODES

Department of Agriculture divisions and allotment codes:

325.01	Division of Administration
325.04	Forestry Seasonal Payroll
325.05	Division of Regulatory Services
325.06	Marketing Development and Promotion
325.08	Agricultural Nonpoint Water Pollution Control Fund
325.10	Forestry Operations
325.11	Forestry Facility Maintenance
325.12	Tennessee Commodities Indemnity Fund
325.14	Certified Cotton Growers' Organization
325.16	Plant Industries Regulatory Fund

Revenue by Source

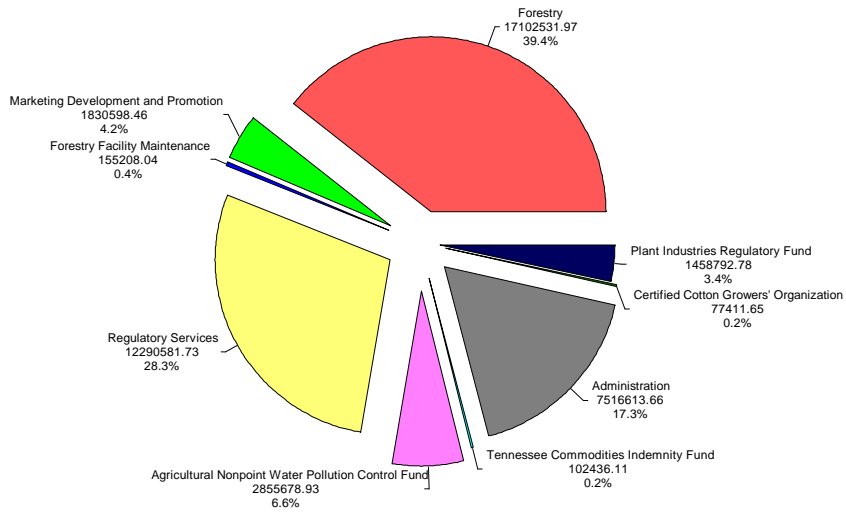
Year Ended June 30, 1998 (Unaudited)



Source: Department of Agriculture

Expenditures by Allotment

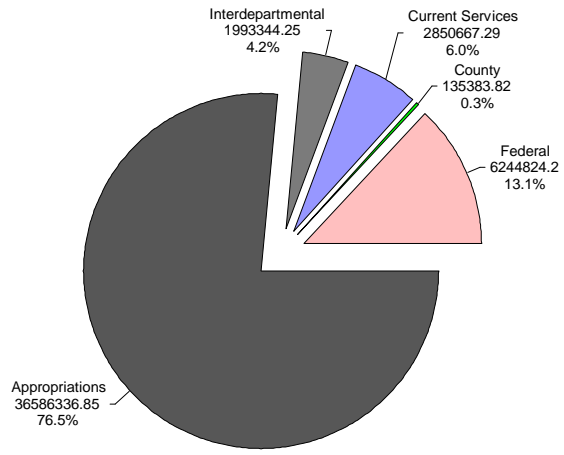
Year Ended June 30, 1998 (Unaudited)



Source: Department of Agriculture

Revenue by Source

Year Ended June 30, 1997 (Unaudited)



Source: Department of Agriculture

